REMARKS

Claims 1-9 and 12-21 are pending in this application. Claims 10-11 previously were cancelled. Claims 12-21 are withdrawn from consideration at this time.

The various grounds of rejection will be addressed in the order in which they were presented in the Office Action of July 16, 2008.

35 USC 112, second paragraph

Claims 1, 12 and 13 have been amended to include a recitation of L^1. This amendment finds support in the specification at page 9, lines 13-19 and page 10, lines 8-10.

Claims 1, 12, and 13 have been amended to recite the optional substituents on Alk1. This amendment finds support in the specification at page 9, line 20 – page 10, line 5.

Claims 1, 12, and 13 have been amended to recite the optional substituents on Cy1. This amendment finds support in the specification at page 19, lines 18-27 and page 20, lines 7-16 of the specification.

Claims 1, 9, 12, and 13 have been amended to delete hydrates, solvates, and N-oxides.

It is respectfully submitted that the foregoing amendments are sufficient to obviate the rejections under 35 USC 112 second paragraph, as set forth at pages 2-3 of the Office Action.

35 USC 112, first paragraph

Claims 1, 12, and 13 have been amended to recite that R^a and R^b are both hydrogen; dependent claim 3 which recited this limitation accordingly is now cancelled.

Claims 1, 12, and 13 have been amended to recite that Y is $C(R^{10})=$ in which R^{10} is $-CONH_2$, $-CONHet^1$, $-CON(R^{12})Het^2$, $-CON(R^{12})Alk^5Het^2$ or $-CO_2Alk^6$ wherein $-NHet^1$ is pyrrolidinyl, imidazolidinyl, pyrazolidinyl, piperazinyl, morpholinyl, thiomorpholinyl, piperidinyl or thiazolidinyl, R^{12} is a hydrogen atom or a straight or branched C_{1-6} alkyl group, $-Het^2$ is cyclopentyl, cyclohexyl, pyrrolidinyl, imidazolidinyl, pyrazolidinyl, piperazinyl, morpholinyl, thiomorpholinyl, piperidinyl or thiazolidinyl, Alk^5 is a straight or branched C_{1-6} alkylene, C_{2-6} alkenylene or C_{2-6} alkynylene chain, optionally interrupted by one, two or three -O- or -S- atoms or $-S(O)-$, $-S(O)_2-$ or $-N(R^{12})-$ groups, and Alk^6 is C_{1-4} alkyl. Support for these changes are found as follows: $-C(R^{10})=$ in which R^{10} is $-CONH_2$, $-CONHet^1$, $-CON(R^{12})Het^2$, $-CON(R^{12})Alk^5Het^2$ or $-CO_2Alk^6$ (support: page 21, lines 24-27), R^{10} = CN (support at examples 9, 18, and 19), wherein $-NHet^1$ is pyrrolidinyl, imidazolidinyl, pyrazolidinyl, piperazinyl, morpholinyl, thiomorpholinyl, piperidinyl or thiazolidinyl (support: page 16, lines 7-8), R^{12} is a hydrogen atom or a straight or branched C_{1-6} alkyl group (support: page 14, line 6 and page 7, lines 20-21), $-Het^2$ is cyclopentyl, cyclohexyl, pyrrolidinyl, imidazolidinyl, pyrazolidinyl, piperazinyl, morpholinyl, thiomorpholinyl, piperidinyl or thiazolidinyl (support: page 16, lines 9-10), Alk^5 is a straight or branched C_{1-6} alkylene, C_{2-6} alkenylene or C_{2-6} alkynylene chain, optionally interrupted by one, two or three -O- or -S- atoms or $-S(O)-$, $-S(O)_2-$ or $-N(R^{12})-$ groups (support: page 14, lines 18-21), and Alk^6 is C_{1-4} alkyl (support: page 21, line 29).

It is respectfully submitted that the foregoing amendments, together with the amendments to delete the words solvate, hydrate, and N-oxide, are sufficient to overcome the rejection under 35 USC 112, first paragraph.

35 USC 102

The rejection of the claims as anticipated by the structure of Litvinov is respectfully traversed. The NH_2 group of Livinov cannot correspond to the LAr group of the present invention, because Ar is an aromatic or heteroaromatic group that must be present. While Ar may be optionally substituted, its presence is not optional to the originally claimed structure. Further, the claims as amended require R^a to be a hydrogen atom, so R^a cannot now correspond to the methyl group of Litvinov.

The rejection of the claims as anticipated by the structure of Dotsenko is respectfully traversed. The NH_2 group of Dotsenko cannot correspond to the LAr group of the present invention, because Ar is an aromatic or heteroaromatic group that must be present. While Ar may be optionally substituted, its presence is not optional to the originally claimed structure. Further, the claims as amended require R^b to be a hydrogen atom, so R^b cannot now correspond to the CO_2H group of Dotsenko.

The rejection of the claims as anticipated by the structure of Davis et al. is respectfully traversed. The Br atom of Davis et al. cannot correspond to the LAr group of the present invention, because Ar is an aromatic or heteroaromatic group that must be present. While Ar may be optionally substituted, its presence is not optional to the originally claimed structure.

The rejection of the claims as anticipated by the structure of Wilson et al. is respectfully traversed. The Me group of Wilson et al. cannot correspond to the Cy^1 group of the inventive structure as originally claimed, because Me is not one of the compounds included in the original claimed definition of Cy^1. Also, the LAr group, which must be two positions on the five-membered ring away from the "X" atom, is completely absent in the Wilson et al. structure. While Ar may be optionally substituted its presence is not optional to the originally claimed structure. Further, in the amended claim structure, R^a must be hydrogen, and cannot be the $-CH_2-F_2$-phenyl group illustrated in the Wilson structure at the A position.

For the foregoing reasons, it is respectfully submitted that the claims, both as set forth in the preliminary amendment and as amended herein, are not anticipated by any of the four references cited.

Double Patenting

The provisional rejection for double patenting is acknowledged. Applicants note that the other references cited by the Examiner have not yet issued as patents. Applicants will address this issue when the claims are otherwise found to be in condition for allowance.

In view of the foregoing, a Notice of Allowance is respectfully requested. The Applicants invite the Examiner to contact the Applicants' undersigned representative at (312) 913-3362 if the Examiner believes that this would expedite prosecution of this application.

Respectfully submitted,

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